

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE**

**and**

**THE HON'BLE MR JUSTICE C.V.RAMULU**

**WRIT APPEAL NO : 1346 of 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated  
16/08/2004 in WP NO : 14426 OF 2004 on the file of the High Court.)

Between:

M/s Pantex Geebee Fluid Power Ltd, Plot No. 57, Phase-IV, IDA, Patancheru-  
502319, rep. by its Managing Director Dr. B.Y.Murthy, S/o B.T.K. Murthy, Hindu,  
aged 59 years, R/o R.C. Puram, BHEL,Hyderabad.

**..... APPELLANT**

AND

1 Employees Provident Funds Appellate Tribunal, rep. by its Chairman, New  
Delhi.

2 Assistant Provident Fund Commissioner, Sushiram Complex,  
Patancheru,Medak District.

**.....RESPONDENT(S)**

**Counsel for the Appellant:MR.CH.DHANAMJAYA**

**Counsel for the Respondent No.: MR.R.N.REDDY**

**The Court made the following Oral Order: (per Sri Devinder Gupta,CJ)**

Appeal of the appellant filed under Section 7-I of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is pending along with an application for stay of the proceedings pursuant to the order passed by the Assistant Provident Fund Commissioner, Employees Provident Fund Organisation. Since there is no Presiding Officer to hear the application for stay, no orders were passed and recovery proceedings were initiated against the appellant. Appellant filed writ petition for appropriate relief pending appeal or till application for interim relief is taken up for consideration by the appellate authority.

Learned single judge dismissed the writ petition on the ground that alternative remedy having been availed, the writ petition is not maintainable.

The reasons assigned by the learned single judge in dismissing the writ petition are not valid reasons in law. Once a litigant has availed the appellate remedy and when there is no Presiding Officer to pass appropriate orders on the application for interim relief, litigant will be left without any remedy and in that situation, extraordinary jurisdiction of this Court can always be invoked for appropriate relief till the matter is taken up for consideration by the appellate authority.

The appeal is accordingly allowed. The impugned order is set aside. The writ petition is partly allowed with a direction that subject to the appellant depositing 50% of the demand, the appeal of the appellant will be entertained and recovery proceedings shall remain stayed till the application for interim relief is taken up for consideration by the appellate authority. Appellant is permitted to deposit the amount within a period of six weeks. The amount, if any deposited by the appellant will be given due credit.

The appeal is accordingly allowed. No costs.

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DEVINDER GUPTA,CJ

DATE: 15<sup>th</sup> September, 2004

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C.V. RAMULU,J

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To

- 1 The Chairman, Employees Provident Funds Appellate Tribunal, New Delhi.
- 2 Assistant Provident Fund Commissioner, Sushiram Complex,  
Patancheru,Medak District.
3. Two C.D. copies